

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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KEITH ALLARD and  
BENJAMIN GRAHAM,

Plaintiffs,

File No. 1:15-CV-1259

v.

Hon. Gordon J. Quist

MICHIGAN HOUSE OF  
REPRESENTATIVES,

**IMMEDIATE CONSIDERATION  
REQUESTED**

Defendant.

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**PLAINTIFFS' UNOPPOSED MOTION TO REQUIRE PRESERVATION  
OF CELL PHONE PENDING DISCOVERY**

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Plaintiffs Keith Allard and Benjamin Graham ask the Court for an order requiring the Michigan State Police (MSP) to preserve a cell phone currently in MSP's possession which may contain relevant evidence in this matter. Specifically, Plaintiffs ask that the Court require the phone's preservation until the parties have an opportunity to agree on a procedure to examine it and its contents, and/or until further order of this Court. Plaintiffs make the motion based on Federal Rules of Civil Procedure 26(b) and 34, and rely on the brief in support filed herewith.

Plaintiffs require immediate consideration of this Motion by the Court because MSP has informed Plaintiffs' counsel that the owner of the cell phone has made repeated requests for its return, and MSP intends to return it absent a Court order to the contrary. Counsel for Plaintiffs has attempted to come to an agreement

with the non-party owner of the phone to permit examination, but has been unsuccessful in making direct contact with the phone's owner. Defendant has no objection to the relief requested.

PINSKY, SMITH, FAYETTE & KENNEDY, LLP  
Attorneys for Plaintiffs

Dated: January 7, 2016

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